

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 255

Introduced by Senator Ducheny

February 18, 2003

An act to add Section 12077.5 to the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 255, as amended, Ducheny. Firearms: firearm eligibility checks.

Existing law requires a licensed firearms dealer to submit specified information to the Department of Justice in connection with the purchase of a firearm to enable the department to determine whether the prospective purchaser is prohibited from purchasing or otherwise possessing a firearm.

This bill would provide a procedure to allow individuals to request that determination without the necessity of a firearm purchase. The bill would authorize the department to charge a fee for this service. *This bill would also prohibit any person from requiring an employee or prospective employee to obtain a firearms eligibility check or notification of a firearms eligibility check. The bill would further provide that a violation of that prohibition would be a misdemeanor.*

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12077.5 is added to the Penal Code, to
2 read:
3 12077.5. (a) An individual may request that the Department
4 of Justice perform a firearms eligibility check for that individual.
5 The applicant requesting the eligibility check shall provide the
6 information required by subdivision (c) of Section 12077 to the
7 department, in an application specified by the department.
8 (b) The department shall charge a fee of twenty dollars (\$20)
9 for performing the eligibility check authorized by this section, but
10 not to exceed the actual processing costs of the department. After
11 the department establishes fees sufficient to reimburse the
12 department for processing costs, fees charged ~~shall~~ *may* increase
13 at a rate not to exceed the legislatively approved cost-of-living
14 adjustment for the department's budget or as otherwise increased
15 through the Budget Act, ~~provided the increase is rounded to the~~
16 ~~nearest dollar.~~
17 (c) Upon receipt of a completed application and fee, the
18 department shall do all of the following:
19 (1) Examine its records, and the records it is authorized to
20 request from the State Department of Mental Health pursuant to
21 Section 8104 of the Welfare and Institutions Code, to determine if
22 the purchaser is a person described in Section 12021 or 12021.1
23 of this code, of Section 8100 or 8103 of the Welfare and
24 Institutions Code.
25 (2) The department shall notify the applicant of its
26 determination of whether the applicant is a person described in
27 Section 12021 or 12021.1 of this code, of Section 8100 or 8103 of
28 the Welfare and Institutions Code.
29 (d) If the department determines that the information submitted
30 to it in the application contains any blank spaces, or inaccurate,
31 illegible, or incomplete information, preventing identification of
32 the applicant, or if the required fee is not submitted, the department
33 shall not be required to perform the firearms eligibility check.

1 (e) *The department shall make applications to conduct a*
2 *firearms eligibility check as described in this section available to*
3 *licensed firearms dealers and on the department's Web site.*

4 (f) *The department shall be immune from any liability arising*
5 *out of the performance of the firearms eligibility check, or any*
6 *reliance upon the firearms eligibility check.*

7 (g) *No person may require an employee or prospective*
8 *employee to obtain a firearms eligibility check or notification of a*
9 *firearms eligibility check pursuant to this section. A violation of*
10 *this subdivision is a misdemeanor.*

11 *SEC. 2. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the penalty*
16 *for a crime or infraction, within the meaning of Section 17556 of*
17 *the Government Code, or changes the definition of a crime within*
18 *the meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*

